



DEPARTMENT OF AGRICULTURE AND MEASUREMENT STANDARDS

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KERN COUNTY PESTICIDE USE ENFORCEMENT WORKPLAN FOR 2009/2011

PESTICIDE USE ENFORCEMENT RESOURCES:

Personnel

- 6 full time Agricultural Biologist III @ 100%
- 1 full time Agricultural Biologist III @ 75%
- 1 full time Agricultural Biologist III @ 50%
- 1 GIS Programmer @ 50%
- 2 full time Supervising Agricultural Biologist IV @ 95%
- 1 Deputy Agricultural Commissioner/Sealer @ 95%
- 2 of our Agricultural Biologist III's are bilingual in Spanish and are compensated by the County of Kern for their bilingual skills.
- All staff is centrally located in our Bakersfield Office and report directly to the Supervising Biologist IV's and Deputy.
- We currently have one vacant Biologist positions.
- Each of our PUE staff is fully licensed, trained and experienced, with one exception. Pesticide Use Enforcement experience ranges from 1 to 28 years.
- Each PUE Biologist is a subject matter expert in one or more areas of pesticide enforcement.

Other Assets:

- Each PUE Biologist, Supervisor, and Deputy has a radio equipped vehicle for his/her exclusive use.
- Each PUE Supervisor and Deputy has a cell phone for his/her exclusive use.
- Each PUE Biologist, Supervisor, Deputy and clerical has a dedicated computer workstation with individual email and internet access.
- Each PUE Biologist, Supervisor, and Deputy has a digital cameral for his/her exclusive use.
- In addition, we have a PUE duty workstation and 5 dedicated workstations for permit issuance. (Permits can also be issued at each person's individual workstation)

CORE ENFORCEMENT PROGRAM

A. Restricted Materials Permitting

Expected Workload 2009/2011 (per year based on past experience and current changes)

- Restricted Material Permits - 2,000
- Operator ID's - 40
- Notices of Intent - 9,900
- Total Agricultural Production Sites Issued - 13,200

Goal

- Protect the people of Kern County in occupational and non-occupational settings and their environment, while allowing safe and effective pest control operations.

Permits Issuance

- Restricted Material Permits are issued for one year or less to the operator of the property to be treated. Permit sites are evaluated prior to the issuance of the permit utilizing our Geographic Information System (GIS) with an automatic check for sensitive areas.
- Each site to be issued is identified in GIS down to the field level using aerial imagery and prior year site boundaries. Residential areas, schools, churches, waterways, parks, and other sensitive areas are noted on permit maps we produce using GIS, to assist in evaluating sites to determine if a substantial adverse impact may result from restricted material applications. Surrounding crops are updated on a daily basis. Feasible alternatives to restricted pesticides are considered and implemented when appropriate.
- The Biologists ensure that permit applicants are qualified and have met the requirements to hold a restricted materials permit. Private applicators and qualified applicators are verified and listed on the permit. If the operator of the property is not available to sign the permit, the authorized representative is allowed to sign with the proper documentation giving him or her authority to do so.
- Permits are issued using the Restricted Material Management System (RMMS), which allows instant access to the permittee's pesticide use report history, down to the site level if needed. If reporting inadequacies are noted, permits are withheld until the issue is resolved and compliance action evaluated.
- Permits are issued by licensed and qualified staff whose experience ranges from 1 to 28 years in the area of pesticide use enforcement. From mid-December through the beginning of February, as many as five PUE Biologists are assigned to the office to handle permit issuance. Annual training on the policies and procedures used to issue permits and properly identifying sites is given by the PUE Deputy, Supervising Biologist IV and/or the DPR Enforcement Branch Liaison.
- Non-agricultural permits are currently issued to Pest Control Businesses subsequent to a review by a county Biologist who determines if their activities come under the umbrella of a non-ag situation.

Deliverables

- Annual staff training prior to permit issuance season and address certification requirements.
- Annual update of sensitive area layer and document environmentally sensitive areas on permit maps.
- Annual review of pesticide permits for accuracy.
- Notify all permit holders of the correct certification requirements through an annual letter.

Site Monitoring Plan

- Notices of Intent (NOI's) are recorded on the appropriate form and are received via fax, voice mail and walk-ins. A minimum of one PUE Biologist is assigned to the office on a daily basis. This PUE office duty person reviews all NOI's for accuracy and completeness using RMMS and specific GIS sensitive area tools. They are then assigned to the appropriate geographical "area". The county is divided into four "areas" and PUE Biologists are assigned to each of these areas. PUE Biologists also perform weekend and Holiday duty, to ensure timely review of NOI's.

NOI Monitoring

- The PUE Biologists assigned to the four areas within the county review the NOI's and determine which of the proposed applications are in need of pre-application inspection. This decision is based on many factors, such as the surrounding environment, distances to sensitive areas (residential areas, schools, parks, etc.), historical complaint areas, application method (air/ground), pesticide formulation (fumigant, liquid, dust), pesticide used, commodity, and applicator. A pre-application site inspection is performed on at least 5 % of all NOI's. All fumigant applications are given priority for pre-site inspection.

Deliverables

- Nearly all fumigant (metam sodium, etc) applications are inspected, assuring the buffer zones are both accurate and adequate and that other mitigating conditions are being complied with.
- Pre-application site inspections on a minimum of 5% of notices of intent received.
- Pre-site aerial applications of any restricted material near sensitive areas.
- Pre-site cotton defoliation applications near sensitive areas.

Expected Program Changes (general terms)

- Continue emphasis on online submission of Pesticide Use Reports.
- Change in general permit conditions to restrict applications of all restricted materials within ¼ mile of a school during school activities when children are present.

B. Compliance Monitoring

Expected Workload

- Field Worker Safety Inspections - 76
- Pesticide Use Monitoring Inspections - 204
- Pesticide Mix-Load Inspections - 80
- Structural Inspections - 56
- Records Audits - 117
- Investigations - 38
- Pre Application Site Inspections - 810
- Pest Control Business, Advisor and Farm Labor Contractor and Structural Pest Control Registrations - 927

Goal

- Conduct compliance monitoring activities to reduce the risk of harm to people in occupational and non-occupational settings and provide environmental protection.

Comprehensive Inspection Plan

- Pesticide Use Monitoring inspections are conducted on growers and Pest Control Businesses. We prioritize these inspections based on our experience with compliance and the potential hazard posed by the application. Method of application, material being applied, compliance history of the applicator, proximity to sensitive areas and other criteria guide our decision to inspect.
- Field Worker Safety inspections are conducted only in fields where there has been a pesticide application in the past 30 days. This concentrates our resources on fields with the highest possibility of hazard. We also consider proximity to other treated fields, compliance history of the employer and the potential for fieldworker exposure to treated surfaces.
- Records Audits and headquarter inspections are conducted as a follow-up for all inspections where violations are discovered. In addition, we audit pest control businesses, pesticide dealers and pest control advisors every third year.
- Biweekly staff meetings are scheduled for coordination, dissemination of new information and “tailgate” training sessions.

Timely Initiation and Completion of all Non-Priority Investigations

- We will exceed DPR established standards for beginning non-priority investigations.

Timely Priority Episode Initiation and Reporting

- DPR’s established standard for beginning priority investigations is that all priority investigations will be initiated as soon as possible and within 48 hours of notification. We will begin all priority investigations as soon as possible and within 24 hours of notification.
- We will follow DPR timelines for completion of investigations, including requesting extensions when that becomes necessary.

Development and Use of Investigation Plan

- We will use the Kern County Hazardous Material Incident Response Plan and an investigation plan during all incident response activities.
- We will use the “Responding to Non-Occupational Pesticide Use-Related Exposure Episodes” guidance documents for those incidents that meet SB 391 criteria.

Thorough Report Preparation

- An extensive review program conducted by the Supervising Biologist and Deputy will ensure thorough report preparation.

Expected Program Changes (general terms)

- As a result of our increased emphasis on monitoring of high risk applications with potential to create a drift incident, we have reached a relatively high level of safety and will refocus some of our attention to Structural Pest Control and Maintenance Gardeners.
- 10% increase in inspections on Structural Pest Control and Maintenance Gardeners with resultant cuts in Field Worker Safety inspections

Deliverables

- Target pre-application site inspections and use monitoring inspections of Metam Sodium and other fumigants within ½ mile of sensitive areas.
- Target pre-application site inspections of aerial applications near sensitive areas.
- Comply with DPRs Inspection Procedures Manual.
- Timely response and completion of all priority and non-priority investigations.

- Timely response and completion of all complaint investigations.
- Comply with DPRs Investigation Procedures Manual.

C. Enforcement Response

Expected Workload (based on past experience and current changes)

- Agricultural Civil Penalties - 50
- Structural Civil Penalties - 0
- Cases Referred to DPR or District Attorney - 0
- County Registration Actions - 0
- Violation Notices - 70
- Outreach Sessions - 23

Goal

- To protect the public and environment of Kern County by taking timely, effective, and fair enforcement action against pesticide violators.

Fair, Consistent and Timely Enforcement Response

- Each PUE Biologist conducts their own investigations, writes up their episode investigations and prepares a complete enforcement case file with supporting documentation. Consistency and quality control is assured through extensive review by the Supervising PUE Biologist and PUE Deputy.
- We will monitor each incident investigation and write-up to insure that we meet DPR established time-lines for completion.
- All compliance and enforcement action decisions will be based on the CCR Pesticide Enforcement Regulations.

Respond to All Violations

- Each violation will be documented with a violation notice and/or and enforcement action consistent with the CCR Pesticide Enforcement Regulations.

Match Response to the Violation to Provide Sustained Compliance

- Each violation will be documented with a violation notice and/or and enforcement action consistent with the CCR Pesticide Enforcement Regulations.
- The history of each entity violating laws or regulations will be considered prior to the issuance of any compliance or enforcement action.
- The compliance history for each permit holder, PCA, PCB, etc. will be maintained in a separate "compliance file" to facilitate timely and complete review of each entity's compliance history.

Expected Program Changes (general terms)

- Kern County will follow the CCR Pesticide Enforcement Regulations. This will result in an increase in the number of enforcement actions taken. The amount of the proposed fine for each enforcement action will increase. This combination of more actions at higher penalties will provide increased deterrence for the violator and the entire regulated community.
- Continue outreach to communicate the changes in the CCR Pesticide Enforcement Regulations.

Deliverables

- Conduct follow up inspections when violations are discovered.
- Compliance history will be reviewed before initiating compliance or enforcement action.
- Comply with the CCR Pesticide Enforcement Regulations when initiating enforcement action by classifying the type of violation, determining appropriate action and using progressive enforcement.

D. Pilot Project to Protect Agricultural Workers**Expected Workload**

- NOIs to be reviewed/entered - 3400
- Data Transmitted - daily

Goal

- Increase the level of communication between members of the agricultural community of Kern County, with the intent of reducing the risk of pesticide drift exposure to agricultural workers.

Implementation

- The pilot project is designed to provide the Kern CAC and permittees with information not currently available regarding the planned presence of agricultural workers. The project encompasses a specific portion of Kern County and entails an active notification element administered by the Kern CAC. When a Notice of Intent for the use of a restricted material in production agriculture is submitted, the Kern CAC notifies adjacent permittees utilizing existing Permit information and GIS database. The Kern CAC also sends the permittee filing the NOI a list of the adjacent permittees whom the commissioner notified.

Deliverables

- Staff present 365 days a year to input data from NOIs.
- Require 48 hour notice of intent for production agriculture restricted materials applications in the pilot project area.
- Agricultural neighbors are notified through an emailed GIS permit map of applications adjacent to their property along with contact information.
- Provide the permittee filing the notice of intent with a list of adjacent permittees and their contact information who the Kern CAC notified in the pilot project area.
- Provide conflict resolution in the pilot project area.